

SWEENEY LEV

A Limited Liability Company

Attorneys at Law

GERALD B. SWEENEY
NJ, IL, CA & NY BARS

GARY B. SCHMIDT
NY & FL BARS

Of Counsel
RITA P. CAMPANILE
NJ & NY BARS

460 Bloomfield Avenue, Suite 200
Montclair, New Jersey 07042-3552
Tel: 973-509-1800
Fax: 973-509-1074
www.sweeneylev.com

New York Office:

909 Third Avenue, #6111
New York, NY 10150-2062
Tel: 212-370-4000

May 2, 2024

By ECF

The Honorable Daniel J. Stewart
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 424
Albany, NJ 12207

Re: Wang, Plaintiff v. Bethlehem Central School District and Jody Monroe, Defendants
Civ. No. 1:21-cv-01023-LEK-DJS - Defendants' Discovery Deficiencies

Dear Magistrate Judge Stewart:

We represent Plaintiff, Juneau Wang, in the above matter; and we write to request your assistance in resolving discovery disputes and deposition scheduling problems pursuant to Local Rule 37.1 and in response to Attorney Levine's letter (Dkt. 29) today.

In our May 1, 2024 letter (Dkt. 58), we requested: 1) Your Honor's assistance in scheduling the deposition of Ms. Dellenbaugh, for which Defendants have failed to identify any available dates for her since April 8, 2024; and 2) Your Honor's assistance in helping timely resolve certain time-critical discovery disputes and to secure Defendants' commitment to timely produce the supplemental documents.

To accomplish that, we made the simple and routine request that **Your Honor schedule a conference by Zoom or other remote means this week to address these urgent discovery problems.** We offered to file with the Court, as and when directed by Your Honor, Plaintiff's letters detailing Defendants' discovery deficiencies and requesting supplementation, Defendants' reply letter, and Defendants' deficient discovery responses, as require by local Rule 26.2. We also communicated with the partner on the case (Monica Lenahan) to request that she call me to attempt to amicably address the open matters regarding Ms. Dellenbaugh's deposition and to commit to a date for supplemental production of documents. But she failed to do that.

In response to our reasonable request, Defendants submitted a 6-page letter today (Dkt. 59) with 18 discovery-related exhibits objecting to a conference, complaining about

Plaintiff's efforts to obtain a date for the deposition of Ms. Dellenbaugh and the documentary discovery needed for upcoming depositions, and making numerous baseless assertions. In addition to unduly complicating the matter and distracting from the limited request made, Defendants made inaccurate and/or misleading assertions about their efforts to provide a date for Ms. Dellenbaugh's deposition and to comply with discovery and Plaintiff's efforts to get answers to routine inquiries. The inaccuracies of Ms. Levine's assertions are readily apparent from a careful review of the exhibits accompanying Ms. Levine's letter, including Exhibits B, E., O, and R. If needed, I will detail and respond to such inaccurate assertions.

Defendants also filed the 18 discovery-related exhibits (many email chains duplicating other email chain exhibits), contrary to the clear and express directive of Local Rule 26.2 not to file such documents unless the court ordered otherwise. Such filings excessively complicate the discovery matters at issue, distract the Court from the simple request for a conference, and waste the parties' time. It is also disappointing and surprising that Attorney Levine (who was said to be out all week and unavailable to confer) devoted so much time and effort to complaining about reasonable requests for deposition dates for Ms. Dellenbaugh and to opposing the conference, rather than 1) obtaining and providing the available dates for Ms. Dellenbaugh's deposition; and 2) obtaining and providing the document production which it promised on 04/26/24 to provide after it completed its searches and had been properly requested by Plaintiff for production on 02/05/24 and again on 04/17/24.

As noted in our May 1st letter to Your Honor, Defendants have failed to offer any available deposition dates for their client BOE President Dellenbaugh and have been materially late in their responses to all of Plaintiff's discovery requests. More importantly, they have been materially deficient in producing the relevant documents requested and needed for the two upcoming scheduled depositions on May 9th and 10th. There are no excuses for such defaults. The conference would be limited to two matters: 1) deposition availability dates for Ms. Dellenbaugh; and 2) the supplement document production, which Plaintiff requested by May 6, 2024, or promptly thereafter.

Attorney Levine's letter further shows that a conference is needed so that the parties can talk to and confer with each other directly and in good faith to resolve the long open matters, rather than exchanging email messages and letters. **Please schedule the conference on Friday May 3rd or Monday May 6th, if feasible**

Thank you for your consideration of this.

Respectfully submitted,
/s/ Gerald B. Sweeney
 Gerald B. Sweeney, Esq.

GBS/gg

cc: All parties by ECF